

By: Senator(s) Thames, Harvey

To: Fees, Salaries and Administration

SENATE BILL NO. 2317
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI
2 CODE OF 1972, TO ALLOW EMPLOYEES TO DONATE PERSONAL LEAVE TO OTHER
3 EMPLOYEES WITH A CATASTROPHIC ILLNESS OR INJURY; TO AMEND SECTION
4 25-3-91, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE
5 TERM "CATASTROPHIC INJURY OR ILLNESS"; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **SECTION 1.** Section 25-3-93, Mississippi Code of 1972, is
8 amended as follows:

9 25-3-93. (1) (a) Except as provided in subsection (1)(b),
10 all employees and appointed officers of the State of Mississippi,
11 who are employees as defined in Section 25-3-91, shall be allowed
12 credit for personal leave computed as follows:

13	Continuous	Accrual Rate	Accrual Rate
14	Service	(Monthly)	(Annually)
15	1 month to 3 years	12 hours per month	18 days per year
16	37 months to 8 years	14 hours per month	21 days per year
17	97 months to 15 years	16 hours per month	24 days per year
18	Over 15 years	18 hours per month	27 days per year

19 However, employees who were hired prior to July 1, 1984, who
20 have continuous service of more than five (5) years but not more
21 than eight (8) years shall accrue fifteen (15) hours of personal
22 leave each month.

23 (b) Temporary employees who work less than a full
24 workweek and part-time employees shall be allowed credit for
25 personal leave computed on a pro rata basis. Faculty members
26 employed by the eight (8) public universities on a nine-month
27 contract, temporary employees of the public universities who work
28 less than twenty (20) hours per week for a period of less than



29 five (5) months during a fiscal year, and recipients of full-time
30 educational leave, while on such leave, shall not be eligible for
31 personal leave.

32 (2) For the purpose of computing credit for personal leave,
33 each appointed officer or employee shall be considered to work not
34 more than five (5) days each week. Leaves of absence granted by
35 the appointing authority for one (1) year or less shall be
36 permitted without forfeiting previously accumulated continuous
37 service. The provisions of this section shall not apply to
38 military leaves of absence. The time for taking personal leave,
39 except when such leave is taken due to an illness, shall be
40 determined by the appointing authority of which such employees are
41 employed.

42 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
43 earned personal leave of each employee shall be credited monthly
44 after the completion of each calendar month of service, and the
45 appointing authority shall not increase the amount of personal
46 leave to an employee's credit. It shall be unlawful for an
47 appointing authority to grant personal leave in an amount greater
48 than was earned and accumulated by the officer or employee.

49 (4) Employees are encouraged to use earned personal leave.
50 Personal leave may be used for vacations and personal business as
51 scheduled by the appointing authority and shall be used for
52 illnesses of the employee requiring absences of one (1) day less.
53 Accrued personal or compensatory leave shall be used for the first
54 day of an employees illness requiring his absence of more than one
55 (1) day. Accrued personal or compensatory leave may also be used
56 for an illness in the employee's immediate family as defined in
57 Section 25-3-95. There shall be no limit to the accumulation of
58 personal leave. Upon termination of employment each employee
59 shall be paid for not more than thirty (30) days of accumulated
60 personal leave. Unused personal leave in excess of thirty (30)
61 days shall be counted as creditable service for the purposes of



62 the retirement system as provided in Sections 25-11-103 and
63 25-13-5.

64 (5) Any officer of the Mississippi Highway Safety Patrol who
65 is injured by wound or accident in the line of duty shall not be
66 required to use earned personal leave during the period of
67 recovery from such injury.

68 (6) Any employee may donate a portion of his or her earned
69 personal leave to another employee who is suffering from a
70 catastrophic injury or illness, or to another employee who has a
71 member of his or her immediate family who is suffering from a
72 catastrophic injury or illness, in accordance with subsection (8)
73 of Section 25-3-95.

74 This subsection shall stand repealed from and after July 1,
75 2005.

76 **SECTION 2.** Section 25-3-95, Mississippi Code of 1972, is
77 amended as follows:

78 25-3-95. (1) All employees and appointed officers of the
79 State of Mississippi, except temporary employees of the public
80 universities who work less than twenty (20) hours per week for a
81 period of less than five (5) months during a fiscal year and
82 recipients of full-time educational leave, while on such leave,
83 shall accrue credits for major medical leave as follows:

84 Continuous	Accrual Rate	Accrual Rate
85 Service	(Monthly)	(Annually)
86 1 month to 3 years	8 hours per month	12 days per year
87 37 months to 8 years	7 hours per month	10.5 days per year
88 97 months to 15 years	6 hours per month	9 days per year
89 Over 15 years	5 hours per month	7.5 days per year

90 Faculty members employed by the eight (8) public universities
91 on a nine-month contract shall accrue credit for major medical
92 leave as follows:

93 Continuous	Accrual Rate	Accrual Rate
94 Service	(Per Month)	(Per Academic Year)



95	1 month to 3 years	13-1/3 hours per month	15 days per
96			academic year
97	37 months to 8 years	14-1/5 hours per month	16 days per
98			academic year
99	97 months to 15 years	15-2/5 hours per month	17 days per
100			academic year
101	Over 15 years	16 hours per month	18 days per
102			academic year

103 Part-time employees shall accrue major medical leave on a pro
104 rata basis. There shall be no maximum limit to major medical
105 leave accumulation. All unused major medical leave shall be
106 counted as creditable service for the purposes of the retirement
107 system as provided in Sections 25-11-103 and 25-13-5.

108 (2) Major medical leave may be used for the illness or
109 injury of an employee or member of the employee's immediate family
110 as defined in subsection (3) of this section, only after the
111 employee has used one (1) day of accrued personal or compensatory
112 leave for each absence due to illness, or leave without pay if the
113 employee has no accrued personal or compensatory leave. Provided
114 that faculty members employed by the eight (8) public universities
115 on a nine-month basis may use major medical leave for the first
116 day of absence due to illness. However, major medical leave may
117 be used, without prior use of personal leave, to cover regularly
118 scheduled visits to a doctor's office or a hospital for the
119 continuing treatment of a chronic disease, as certified in advance
120 by a physician. For the purposes of this section, "physician"
121 means a doctor of medicine, osteopathy, dental medicine, podiatry
122 or chiropractic. For each absence due to illness of thirty-two
123 (32) consecutive working hours (combined personal leave and major
124 medical leave) major medical leave shall be authorized only when
125 certified by their attending physician.

126 (3) An employee may use up to three (3) days of earned major
127 medical leave for each occurrence of death in the immediate family



128 requiring the employee's absence from work. No qualifying time or
129 use of personal leave will be required prior to use of major
130 medical leave for this purpose. For the purpose of this
131 subsection (3), the immediate family is defined as spouse, parent,
132 stepparent, sibling, child, stepchild, grandchild, grandparent,
133 son- or daughter-in-law, mother- or father-in-law or brother- or
134 sister-in-law. Child means a biological, adopted or foster child,
135 or a child for whom the individual stands or stood in loco
136 parentis.

137 (4) Employees and appointed officers of the State of
138 Mississippi having unused, accumulated sick leave or annual leave
139 earned prior to July 1, 1984, shall be credited with major medical
140 leave and personal leave as follows: All unused annual leave
141 shall be credited as personal leave.

142 Unused sick leave shall be divided between major medical
143 leave and personal leave at rates determined by the employee's
144 sick leave balance on June 30, 1984. The rates of conversion
145 shall be as follows:

146 Sick Leave	Percentage	Percentage
147 Balance as of	Converted to	Converted to
148 June 30, 1984	Personal Leave	Major Medical Leave
149 1 - 200 hours	20%	80%
150 201 - 400 hours	25%	75%
151 401 - 600 hours	30%	70%
152 601 or more hours	35%	65%

153 (5) Upon retirement from active employment each faculty
154 member of the state-supported public universities who is employed
155 on a nine-month basis shall receive credit and be paid for not
156 more than thirty (30) days of unused major medical leave for
157 service as a state employee. Unused major medical leave in excess
158 of thirty (30) days shall be counted as creditable service for the
159 purposes of the retirement system as provided in Sections
160 25-11-103 and 25-13-5.



161 (6) Any officer of the Mississippi Highway Safety Patrol who
162 is injured by wound or accident in the line of duty shall not be
163 required to use earned major medical leave during the period of
164 recovery from such injury.

165 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
166 earned major medical leave of each employee shall be credited
167 monthly after the completion of each calendar month, and the
168 appointing authority shall not increase the amount of major
169 medical leave to an employee's credit. It shall be unlawful for
170 an appointing authority to grant major medical leave in an amount
171 greater than was earned and accumulated by the officer or
172 employee.

173 (8) Any employee may donate a portion of his or her earned
174 personal leave or major medical leave to another employee who is
175 suffering from a catastrophic injury or illness, as defined in
176 Section 25-3-91, or to another employee who has a member of his or
177 her immediate family who is suffering from a catastrophic injury
178 or illness, in accordance with the following:

179 (a) The employee donating the leave (the "donor
180 employee") shall designate the employee who is to receive the
181 leave (the "recipient employee") and the amount of earned personal
182 leave and major medical leave that is to be donated, and shall
183 notify the donor employee's appointing authority or supervisor of
184 his or her designation. The donor employee's appointing authority
185 or supervisor then shall notify the recipient employee's
186 appointing authority or supervisor of the amount of leave that has
187 been donated by the donor employee to the recipient employee.

188 (b) The maximum amount of earned personal leave that an
189 employee may donate to any other employee may not exceed a number
190 of days that would leave the donor employee with fewer than seven
191 (7) days of personal leave left, and the maximum amount of earned
192 major medical leave that an employee may donate to any other
193 employee may not exceed fifty percent (50%) of the earned major



194 medical leave of the donor employee. All donated leave shall be
195 in increments of not less than twenty-four (24) hours.

196 (c) An employee must have exhausted all of his or her
197 earned personal leave and major medical leave before he or she
198 will be eligible to receive any leave donated by another employee.

199 (d) Before an employee may receive donated leave, he or
200 she must provide his or her appointing authority or supervisor
201 with a physician's statement that states the beginning date of the
202 catastrophic injury or illness, a description of the injury or
203 illness, and a prognosis for recovery and the anticipated date
204 that the recipient employee will be able to return to work.

205 (e) If an employee is aggrieved by the decision of his
206 or her appointing authority that the employee is not eligible to
207 receive donated leave because the injury or illness of the
208 employee or member of the employee's immediate family is not, in
209 the appointing authority's determination, a catastrophic injury or
210 illness, the employee may appeal the decision to the employee
211 appeals board.

212 (f) Beginning on the effective date of Senate Bill No.
213 2317, 2003 Regular Session, the maximum period of time that an
214 employee may use donated leave without resuming work at his or her
215 place of employment is ninety (90) days, which commences on the
216 first day that the recipient employee uses donated leave. Donated
217 leave that is not used because a recipient employee has used the
218 maximum amount of donated leave authorized under this paragraph
219 shall be returned to the donor employees in the manner provided
220 under paragraph (g) of this subsection.

221 (g) If the total amount of leave that is donated to any
222 employee is not used by the recipient employee, the donated leave
223 shall be returned to the donor employees on a pro rata basis,
224 based on the ratio of the number of days of leave donated by each
225 donor employee to the total number of days of leave donated by all
226 donor employees.



227 (h) The failure of any appointing authority or
228 supervisor of any employee to properly deduct an employee's
229 donation of leave to another employee from the donor employee's
230 earned personal leave or major medical leave shall constitute just
231 cause for the dismissal of the appointing authority or supervisor.

232 (i) No person through the use of coercion, threats or
233 intimidation shall require or attempt to require any employee to
234 donate his or her leave to another employee. Any person who
235 alleges a violation of this paragraph shall report the violation
236 to the executive head of the agency by whom he or she is employed
237 or, if the alleged violator is the executive head of the agency,
238 then the employee shall report the violation to the State
239 Personnel Board. Any person found to have violated this paragraph
240 shall be subject to removal from office or termination of
241 employment.

242 (j) No employee can donate leave after tendering notice
243 of separation for any reason or after termination.

244 (k) Recipient employees of agencies with more than five
245 hundred (500) employees as of the effective date of Senate Bill
246 No. 2317, 2003 Regular Session, may receive donated leave only
247 from donor employees within the same agency. A recipient employee
248 in an agency with five hundred (500) or fewer employees as of the
249 effective date of Senate Bill No. 2317, 2003 Regular Session, may
250 receive donated leave from any donor employee.

251 (l) In order for an employee to be eligible to receive
252 donated leave, the employee must:

253 (i) Have been employed for a total of at least
254 twelve (12) months by the employer on the date on which the leave
255 is donated; and

256 (ii) Have been employed for at least one thousand
257 two hundred fifty (1,250) hours of service with such employer
258 during the previous twelve-month period from the date on which the
259 leave is donated.



260 (m) Donated leave shall not be used in lieu of
261 disability retirement.

262 (n) For the purposes of this subsection, "immediate
263 family" means spouse, parent, stepparent, sibling, child or
264 stepchild.

265 (o) This subsection shall stand repealed from and after
266 July 1, 2005.

267 **SECTION 3.** Section 25-3-91, Mississippi Code of 1972, is
268 amended as follows:

269 25-3-91. For purposes of Sections 25-3-91 through 25-3-99,
270 the following words and terms shall have the meaning described
271 herein, unless the context requires otherwise:

272 (a) "Appointing authority" shall mean such person,
273 agency or authority authorized by law to employ individuals in
274 state government, but shall not include the Board of Directors of
275 the Mississippi Industries for the Blind.

276 (b) "Catastrophic injury or illness" means a
277 life-threatening injury or illness of an employee or a member of
278 an employee's immediate family which totally incapacitates the
279 employee from work, as verified by a licensed physician, and
280 forces the employee to exhaust all leave time earned by that
281 employee, resulting in the loss of compensation from the state for
282 the employee. Conditions that are short-term in nature,
283 including, but not limited to, common illnesses such as influenza
284 and the measles, and common injuries, are not catastrophic.
285 Chronic illnesses or injuries, such as cancer or major surgery,
286 which result in intermittent absences from work and which are
287 long-term in nature and require long recuperation periods may be
288 considered catastrophic.

289 (c) "Employee" means a person appointed to a position
290 in the state service or nonstate service as defined in Section
291 25-9-107, for which he is compensated on a full-time permanent or
292 provisional basis, a temporary basis, or a part-time basis.



293 However, in order for an employee to be eligible to receive
294 donated leave, the employee must meet the requirements provided in
295 Section 25-3-95(8).

296 (d) "Workday" shall mean a day as defined in Section
297 25-1-98.

298 (e) "Temporary employment" means the employment of a
299 person in a temporary or time-limited position not to exceed
300 twelve (12) months.

301 (f) "Part-time employment" means the employment of a
302 person in a part-time position.

303 **SECTION 4.** This act shall take effect and be in force from
304 and after its passage.

